Preserve

G. R. S. IX-5]

Previous references.
Ch 197-17 Ses 1-4.
Ch 205-17 Ses 1-2

1918-19
(Courts)

File No. 43-18.

Serial Nos. 1 & 2

Later references.
Ch 180-18(1-2)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 & 2

Part B for October, 1918.

SUBJECT.

Memorial of Khadar Sab alias Bandabba praying for remission of Sentence of death Confirmed in Criminal Appeal no 55 of 1917-18 on the File of the Chief Court

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Sl no 2. To. the Registrar, Chief Court
no G. 7124 Dated 9.10.18.
Informs to Communicate the Prisioner Khadar Sab unos Sentence of death in the Bangalore Central gail. the Orders passed by H.H. the Maharaja of Mysore.

W D 88—GPB—50,000—24-7-16

PBC 8/14/11/18

G. R. S. III—1] 1918.

GENERAL AND REVENUE SECRETARIAT.

(C15.)

NOTES.

File No. 43-18

FILE HEADING.

Memorial of Khader Sah alias Bonaldapapa praying for remission of Sentence of death confirmed in criminal appeal no. 55 of 1917-18 on the file of the Chief Court.

From

The Registrar, Chief Court of Mysore

No. 76 Dated 1-8-18 Received 3-8-18

Diary No. 9-2281	Enclos. Record Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards a memorial from Khader Sah praying for remission of Sentence passed on him by Sessions Judge Bangalore confirmed by the Chief Court on appeal.

NOTES AND ORDERS.

Seen.

1) The facts of the case are stated in the judgement of the Sessions Judge of Bangalore.

8G
8/8
6/8

NOTES—First Sheet.

W.D. 1232—GPB—20,000—18-11-15

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | 45 File No. 43 of 1918-19.

Serial No.

2) The petitioner was tried for the murder of one Bobbamma an Edigar woman aged 28 living in Vaddarahalli, Pavagada Taluq, and was found guilty, convicted and sentenced to death by the Sessions Judge of Bangalore. The Chief Court on appeal have affirmed the conviction and sentence.

3) The petitioner ~~desires~~ prays for clemency on the plea of innocence. He also explains that on account of his illicit intimacy with the daughter in law of Narasimha ~~Subbappa~~, one of the prosecution witnesses, the latter out of revenge has deposed against him.

4) The facts of the case are very clear. The deceased Bobbamma used to take "gugri" for sale every day from her village to Lingadahalli, and return home on the same evening or early next morning. On the 21st May 1917, she did not return home in the evening, her husband sent his step son to look for her. He found his step mother lying dead under a Kalive orchard with her throat cut. Information was sent to the Police, and in the course of investigation the accused was suspected, was arrested. There is no direct evidence to connect the accused with the crime. That the woman's death was due to the cutting of the throat is clear from the evidence of the Medical officer who conducted the post mortem. There is a large mass of circumstantial

NOTE—Contn. sheet.

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | CS File No. 43 of 1918-19

Serial No.

evidence to connect the accused with the crime. Next is the evidence of Moodlappa to show that the accused was seen near the Scene of murder on Monday the 21st May 1917. That very night he was seen in the company of Narsimhia and Siddappa and both of them depose that the accused gave them certain jewels for melting, and the description tallies in every detail with that given of the jewels found missing after the deceased. Portions of the jewels which have not been melted have been identified by the husband of the deceased as hers. Next then is the strong fact that the clothes & knife which the accused left in his father-in-law's house within a few days (2nd) of the crime have been certified to contain Mammalian blood. These clothes & knife were produced by the father-in-law & wife respectively of the accused, and have been proved to be those of the accused.

5) The evidence seems quite reliable, and there do not appear to be any good grounds for coming to any other conclusion. The offence was a brutal one and the pleas put forward have been urged in both the Courts and were not believed. There does not appear any reasons for showing clemency in this case.

Chief Secretary

Private Member

Es 8.

NOTE—Contn. sheet.

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | cts File No. 43 of 1918.-19

Serial No.

6) The only circumstance that would justify any clemency is the fact that the evidence against the memorialist is circumstantial. The evidence is however of great weight & the memorialist has not explained it away in any satisfactory manner.

7) The crime appears to have been a brutal one committed for a small gain.

8) The memorial may be rejected.

1st member

cts 8/8/18

9) Gentlemen, the evidence against the memorialist is circumstantial. But it is of sufficiently strong cogency to support the conviction. The memorial may be rejected

13/8/18 cts

Council matter for disposal by circulation

10) May be disposed of by circulation.

Dewan

cts 13/8/18

917 14.8.18

11) I agree. The only circumstance justifying clemency is that there is no 'direct' evidence.

12) May be dealt with by circulation.

14. 8. 18

NOTE—Contn. sheet.

13) Circulate

cts 24/8

P. J. O.

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 43 of 1918.

Serial No.

(14) I do not think that the circumstances of the case warrant any recommendation for clemency. The petition may be rejected

Rejd
31.8.18

(15) Both the accused admitted the guilt of the accused.

(16) The motive is said to be robbery - Ipso facto the guilt are clearly accomplices. Only points who need the stolen jewels namely which they had already sold before detection.

(17) There is no direct evidence of any kind.

(18) Under all these circumstances taking the case as the evidence on record in my opinion there can be no question of clemency to modify the death sentence to one of transportation for life

Yes
21/8

NOTE—Contn. sheet.

G. R. S. III-2]

General and Revenue Secretariat.

CS File No. 43 of 1918.

Serial No.

1) 4/9 Subd. with a D.F.N. and a D.S.N.

2) 3/9 In favour approval

3/9 First Member

3) 4/9 Fair draft note signed light 1st minutes

4) 5/9/18

5) D.S/L submitted

Dewan 6/9/18

6) This may be talked over in Council.

19.9.18

7) Note among urgent cases

NOTE—Contn. sheet.

(For Disposal by Circulation) No. C. 921

27.8.1918.

GENERAL AND REVENUE SECRETARIAT.

COUNCIL MATTER.

SUBJECT.

(Clause vi of the Schedule)

Memorial of Khader Sab alias Buddappa praying for remission of the sentence of death passed on him in Tumkur Sessions Case No. 1 of 1917-18.

26/ CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

C Balasundaram

Chief Secretary to Government.

~~Dkt~~ 26th August 1918.

Extraordinary Member of Council.

First Member of Council. Opinion recorded.

886. 31.8.18

Second Member of Council. Op. recorded 2/9

357-207 28.8.18.

Extra Member of Council Opinion recorded

31.8.18

WD 2670—GPB—1,000—11-5-17

12-do Nee 29

Urgent Subject. No. 3 (45)

Subject.-

27) Memorial of Khader Sab alias Buddappa praying for remission of the sentence of death passed on him in Tumkur Sessions Case No.1 of 17-18.

To be rept to Dewan's office

Opinion of the Council.

1713 ~ 20.9.18

28) Rept to Dewan as instructed in Council yesterday.

Submitted to His Highness.

Paper under disposal

36) I submit herewith a Final Note by the First Member of Council on the subject of the memorial of Kadar Sab alias Buddappa praying for remission of the sentence of death passed on him in Tumkur Sessions case No.1 of 1917-18, for His Highness' gracious approval.

Page 4 of office Notes

Page 5 of —do—

37) 2. In my note of the 24th August, I observed that there was no direct evidence in the case. The Second Member of Council has agreed with me and stated that :- "prosecution witnesses 9 and 10 are clearly accomplices being friends who received the stolen jewels some of which they had already melted before detection". He adds that it would be an act of clemency to modify the death sentence to one of transportation for life.

38) 3. I agree with him and recommend that the sentence of death may be commuted to one of transportation for life.

M. Visvesvaraya

23rd Sep. 1918.

HR

Final Note by the First Member of Council.

Subject:-

Memorial of Khader Sab alias Buddappa praying for remission of the sentence of death passed on him in Tumkur Sessions case No.1 of 1917-18.

39

Pages 2 & 3 of Office Notes

40) The facts of the case are stated in the notes in courts file 43 of 1918.

41) 2. The memorialist was tried for the murder of one Boblamma, and was found guilty, convicted and sentenced to death by the Sessions Judge of Bangalore. The Chief Court on appeal have affirmed the conviction and sentence.

42) 3. The only circumstance justifying clemency is that there is no direct evidence. But the circumstantial evidence is sufficiently strong and conclusive to support the conviction.

Pages 4 & 5 of Office Note

43) 4. The majority of the Council are of opinion that the memorial may be rejected.

Page 5 of do

44) 5. The Second Member considers that it would be an act of clemency to modify the death sentence to one of transportation for life.

45) 6. The opinion of the majority may be approved.

5th Sept 1918

First Member of Council.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

46) Memorial of Khadar Sab alias Buddappa praying for remission of the sentence of death passed on him in Tumkur Sessions Case No.10 of 1917-18.

337

47) *Order.*

~~KRW~~

27/9/18

1446
28/9

48) Chief Secretary
28-9-18

Rao

Lee
29/9

403.
30.9.18.

1.10

1069-12
1-10-18

Rec
1.10.18

4/2/10/18

G. R. S. III-2)

General and Revenue Secretariat. | C/S File No. 93 of 1918

Serial No.

49) Subd with a draft and fair of H. H's order and a draft to the Registrar, Chief Court.

8/10/18

3/10/18

Chief Secy) 3/10/18

50) In signature.

2029 / 3/10/18

Dewan) 3/10/18

51) Signed by the Dewan - 4.10.18

52) Issue

5/10/18

53 5/10

2 To, The Registrar, Chief Court No. G 7124 dt 9-10-18

Informs to Communicate to the prisoner Khader Sab alias Budappa under Sentence of death in the B. C. jail, the orders passed by H. H. the Maharaja of Mysore

9/10/18

NOTE—Contn. sheet.

№ 76 Cr (5 files of 3 records)

GEN. & REV. SEC. 5 AUG 1918 10706

Bangalore,

Dated 1st August — 1918.

2281
43-18
1

From

THE REGISTRAR OF THE
CHIEF COURT OF MYSORE.

Cr. 335
Mi 378
SECRETARIAT III JUDICIAL 4- AUG 1918

To

THE SECRETARY TO GOVERNMENT,
~~GENERAL AND REVENUE DEPARTMENTS.~~
Chief
of Mysore
Bangalore.

Sir,

I am directed to forward a memorial addressed to His Highness the Maharaja by Khader Sab alias Buddappa accused in Tumkur Sessions Case No. 1 of 1917-18 on the file of the Sessions Judge of Bangalore Division and appellant in Criminal Appeal No. 55 of 1917-18 on the file of this Court.
Criminal Referred Case No. 6 of 1917-18.

The entire record of the case is herewith forwarded.

I have the honor to be,

Sir,

Your most obedient servant,

N. Gopalaswamy

Registrar.

GPB—1,000—16-8-12

1917-18

Marked before me.

Chief Justice.

D. C. Jail.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Friday, the 5th day of July 1918.

Present.

Sir LESLIE C. MILLER, Kt., Chief Judge,

and

Mr. Justice T.PARAMASIVA IYER.

Petition of Criminal Appeal No. 55 of 1917-18/Criminal Referred Case No. 6 of 1917-18 against the conviction and sentence by the Sessions Judge of Bangalore under section 302 of the Indian Penal Code, in Tumkur Sessions Case No. 1 of 1917-18.	APPELLANT, Khader Sab alias Buddappa (Accused)

JUDGMENT.

We have no doubt the conviction is right. We have examined the evidence in detail but we can find no reason to discredit the statements of Narasimhia and his son Siddappa, persons to whom the accused was known by sight. ~~This~~ Their evidence shews that soon after the death of the woman Boblamma the accused brought them some jewellery to melt, and their description of the jewellery corresponds with the description given, by the relatives of the deceased woman, of the jewellery which she was wearing

on

on the day of her death. And portions of the jewellery which remained unmelted when the investigation began, notably a misshapen pearl, were identified by the relatives of the deceased.

Accepting the evidence of these two witnesses and the identification of the jewellery the evidence against the accused is strong for there is no reason to suppose that they could be mistaken as to the identity of the man who gave them the jewellery. It is part of the accused's defence that he knew them.

This is not however the only evidence; we agree with the Sessions Judge in accepting the statement of the witness Budan Sab, father-in-law of the accused, that 5 or 6 days before the Police came to his house, the accused came and left some blood stained cloths there. We find no reason to believe the highly improbable explanation by which the accused seeks to discredit this evidence, and if we accept it, it proves an additional circumstance pointing strongly to the guilt of the accused.

Nor do we, think there is any reason to refuse to accept Budan Sab's statement that the knife produced belongs to his son-in-law.

In these circumstances even if we reject the evidence as to the accused's presence on the road on Monday the 21st before the deceased left Lingadahalli, near the place where her body was found, there is still evidence which proves the guilt of the accused beyond reasonable doubt.

There is no indication so far as we can see, that the case has been concocted, and nothing in the

evidence

evidence suggesting that the accused has been pitched upon by Narasimhia and Siddappa out of ill feeling. There is no support for the accused statement as to his intimacy with Siddappa's wife.

The evidence of Thimma (Exhibit 6), though his account of the deceased's story to him does not seem to be relevant against the accused, still shows that the accused used to come to his shop where he could have had opportunities of seeing the deceased and the jewellery she wore.

There is no evidence on the side of the accused, and we are satisfied that he has been properly convicted.

We confirm the conviction and sentence of death and dismiss the appeal.

(Sd.) Leslie C. Miller,

CHIEF JUDGE.

(Sd.) V. Paramasiva Iyer

JUDGE.

True Copy

N. Gopalakrishnan

Registrar.

N.G.

G. R S. VI—s-III/33]

DRAFT.

SUBJECT.....

.....

.....

Section. 45
File No. 43-18
Serial No. 2

No. G 7124

Diary No. of letter replied to.....

To Encls 6 (Copy of H.H's orders 45 files)

The Registrar of the Chief Court of Mysore.

GENERAL AND REVENUE SECRETARIAT,
( )
, *the*.....*191*

Date of issue 9—10—18

Signed by Lt C S Iyer

SIR,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoner.... Khadar Sahib alias Bnddappa.....

undergoing sentence of..... death.....

.....

in the.... Bangalore Central Jail, copy of order passed by H. H. the Maharaja of Mysore, on the prisoner's memorial

.....

2. The entire records received with your letter No..... 76..... dated the..... 1st..... August..... 1918 are herewith returned.

I have, etc.,

3/10/18

for Chief Secretary.

9/10

List of enclosures.

Copied by.....

Examined by.....

WD 02263—GPB—2,000—29-5-17

In the Matter of a Memorial of Khadar Sab alias Buddapopa accused in Tumkur Sessions Case No. 1 of 1917-18 on the file of the Sessions Judge, Bangalore Division and appellant in Criminal Appeal No. 55 of 1917-18 on the file of the Chief Court, praying for remission of the sentence of death passed on him

His Highness the Maharaja

has been pleased to direct that the sentence of death be commuted to one of transportation for life

Date of order 27th. Sep. 1918

(Draft)

4.10.18 Dewan.

WD 02264—GPB—500—5-2-17